

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(232)

CRM-M-14206-2022

Date of Decision: 20.04.2022

Iqbal Khan @ Mohammad Iqbal

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Rakesh Gupta, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.49 dated 1.5.2019 registered under Sections 406, 498-A and 494 IPC(added later on) at Police Station, City-II, Malerkotla, District Malerkotla.

As per facts of the case, present FIR was lodged by Yasmeen wife of Iqbal Khan i.e. the present petitioner. The sum and substance of the allegations in the FIR is that the complainant was married with the petitioner in November, 2016. Her parents gave enough dowry as per their capacity, however, soon after the marriage she was harassed by the petitioner and his family members. She was persistently given tauntings that her parents did not give enough cash. She was pressurized to bring Rs.5 lakh cash from her mother and brother. They started harassing and beating her for not fulfilling their demand. Besides this she was pressurized daily and threatened for giving divorce. She was also beaten by the in-laws. Though she tried to settle in the matrimonial home but having no other alternative she finally lodged the present FIR.

The investigation commenced and on completion of the investigation challan was presented on 7.1.2020. Thereafter the petitioner

was arrested on 9.11.2021. He approached learned Addl. Sessions Judge, Sangrur for grant of bail, however, after hearing the parties, the same was declined vide order dated 17.12.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that both petitioner and the prosecutrix are of the age of majority. It is submitted that the main ground for declining his bail is that the petitioner had performed second marriage. Counsel submits that the allegations pertaining to second marriage are false and frivolous and the same have been levelled only in order to keep the petitioner behind bars. It is further submitted that otherwise the offence under Section 494 I.P.C is a bailable offence and hence the petitioner could not have been penalized for the same as even the cognizance cannot be taken for the same on the basis of the FIR. Counsel submits that the present FIR has been lodged on account of the matrimonial discord and the petitioner has never been involved in any of the offence of the similar nature. Counsel submits that after completion of investigation the challan has already been submitted and the petitioner is behind bars for the last more than six months and deserves to be granted bail.

On the other hand learned State counsel has strongly opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner for causing harassment and cruelty to the complainant. She has further submitted that despite order of the court below the petitioner never filed the affidavit regarding allegations of second marriage, however, she submits that after completion of investigation the

challan has been submitted.

I have heard learned counsel for the parties at length and have gone through the record carefully.

The allegations against the petitioner are pertaining to the harassment caused to his wife on account of demand of dowry. The allegations pertaining to the second marriage are disputed questions of fact which can only be proved by leading evidence before the Trial Court. However, after completion of investigation challan has already been submitted and the case is fixed for framing of charges. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

20.04.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No